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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING

THE CORRESPONDENCE WHICH HAS LATELY TAKEN PLACE

BETWEEN

THE SECRETARY OF STATE

AND

GENERAL VIVES, THE SPANISH MINISTER,

IN RELATION TO THE

TREATY FOR THE CESSION OF THE FLORIDAS.

MAY 9, 1820.

Read, and ordered to be printed by the House of Representatives.

WASHINGTON :

PRINTED BY GALES & SEATON.

1820.

MESSAGE.

To the House of Representatives of the United States:

I communicate to Congress a correspondence which has taken place between the Secretary of State and the Envoy Extraordinary and Minister Plenipotentiary of his Catholic Majesty, since the message of the 27th March last, respecting the treaty which was concluded between the United States and Spain, on the 22d February, 1819.

After the failure of his Catholic Majesty, for so long a time, to ratify the treaty, it was expected that this minister would have brought with him the ratification; or, that he would have been authorized to give an order for the delivery of the territory, ceded by it, to the United States. It appears, however, that the treaty is still unratified, and that the minister has no authority to surrender the territory. The object of his mission has been to make complaints, and to demand explanations, respecting an imputed system of hostility, on the part of citizens of the United States, against the subjects and dominions of Spain, and an unfriendly policy in their government, and to obtain new stipulations against these alleged injuries, as the condition on which the treaty should be ratified.

Unexpected as such complaints and such a demand were, under existing circumstances, it was thought proper, without compromising the government, as to the course to be pursued, to meet them promptly, and to give the explanations that were desired, on every subject, with the utmost candor. The result has proved, what was sufficiently well known before, that the charge of a systematic hostility being adopted, and pursued by citizens of the United States, against the dominions and subjects of Spain, is utterly destitute of foundation; and that their government, in all its branches, has maintained, with the utmost rigor, that neutrality, in the civil war between Spain and the colonies, which they were the first to declare. No force has been collected, nor incursions made from within the United States, against the dominions of Spain; nor have any naval equipments been permitted, in favor of either party, against the other. Their citizens have been warned of the obligations incident to the neutral condition of their country; the public officers have been instructed to see that the laws were faithfully executed; and severe examples have been made of some who violated them.

In regard to the stipulation proposed, as the condition of the ratification of the treaty, that the United States shall abandon the right to recognize the revolutionary colonies in South America, or to form other relations with them, when, in their judgment, it may be just

and expedient so to do, it is manifestly so repugnant to the honor, and even to the independence of the United States, that it has been impossible to discuss it. In making this proposal, it is perceived, that his Catholic Majesty has entirely misconceived the principles on which this government has acted, in being a party to a negotiation so long protracted, for claims, so well founded and reasonable, as he likewise has the sacrifices which the United States have made, comparatively, with Spain, in the treaty, to which it is proposed to annex so extraordinary and improper a condition.

Had the Minister of Spain offered an unqualified pledge that the treaty should be ratified by his Sovereign, on being made acquainted with the explanations which had been given by this government, there would have been a strong motive for accepting and submitting it to the Senate, for their advice and consent, rather than to resort to other measures for redress, however justifiable and proper; but he gives no such pledge; on the contrary, he declares, explicitly, that the refusal of this government to relinquish the right of judging and acting for itself, hereafter, according to circumstances, in regard to the Spanish colonies, a right common to all nations, has rendered it impossible for him, under his instructions, to make such engagement. He thinks that his Sovereign will be induced, by his communications, to ratify the treaty; but still, he leaves him free, either to adopt that measure, or to decline it. He admits, that the other objections are essentially removed, and will not, in themselves, prevent the ratification, provided the difficulty on the third point is surmounted. The result, therefore, is, that the treaty is declared to have no obligation whatever; that its ratification is made to depend, not on the considerations which led to its adoption, and the conditions which it contains, but on a new article, unconnected with it, respecting which a new negotiation must be opened, of indefinite duration and doubtful issue.

Under this view of the subject, the course to be pursued would appear to be direct and obvious, if the affairs of Spain had remained in the state in which they were when this Minister sailed. But, it is known, that an important change has since taken place in the government of that country, which cannot fail to be sensibly felt, in its intercourse with other nations. The minister of Spain has essentially declared his inability to act in consequence of that change. With him, however, under his present powers, nothing could be done. The attitude of the United States must now be assumed, on full consideration of what is due to their rights, their interest, and honor, without regard to the powers or incidents of the late mission. We may, at pleasure, occupy the territory which was intended and provided, by the late treaty, as an indemnity for losses so long since sustained by our citizens; but still, nothing could be settled definitively without a treaty between the two nations. Is this the time to make the pressure? If the United States were governed by views of ambition and aggrandizement, many strong reasons might be given in its favor. But they have no objects of that kind to accomplish; none which are not founded in justice, and which can be injured by forbearance.

Great hope is entertained that this change will promote the happiness of the Spanish nation. The good order, moderation, and humanity, which have characterised the movement, are the best guarantees of its success. The United States would not be justified, in their own estimation, should they take any step to disturb its harmony. When the Spanish government is completely organized, on the principles of this change, as it is expected it soon will be, there is just ground to presume, that our differences with Spain will be speedily and satisfactorily settled.

With these remarks I submit it to the wisdom of Congress, whether it will not still be advisable to postpone any decision on this subject until the next session.

JAMES MONROE.

Washington, 9th May, 1820.

LIST OF PAPERS

ACCOMPANYING THE PRESIDENT'S MESSAGE, OF NINTH MAY, 1820,
TO BOTH HOUSES OF CONGRESS.

1. Recal of Don Luis de Onis. Translation.
2. Don Luis de Onis to the Secretary of State, dated Madrid, 27th January, 1820. Translation.
3. Credential letter delivered by General Don Francisco Dionisio Vives to the President of the United States. Translation.
4. General Vives to the Secretary of State, 14th April, 1820. Translation.
5. Secretary of State to General Vives, 18th April, 1820. Copy.
6. General Vives to the Secretary of State, 19th April, 1820. Translation.
7. Full power to General Vives. Translation.
8. Secretary of State to General Vives, 24th April, 1820. Copy.
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10. Secretary of State to General Vives, 3d May, 1820. Copy.
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12. Secretary of State to General Vives, 6th May, 1820. Copy.
13. General Vives to the Secretary of State, 7th May, 1820. Translation.
14. Secretary of State to General Vives, 8th May, 1820. Copy.
15. Mr. Gallatin to the Secretary of State, dated Paris, February 15, 1820. Copy.
16. Mr. Rush to the Secretary of State, dated London, February 25, 1820. Extract.

Recal of Mr. Onis.

[TRANSLATION.]

Don Ferdinand the Seventh, King, by the grace of God, of Castile, Leon, and Arragon; of the two Sicilies, Jerusalem, Navarre, Grenada, Toledo, Valencia, Galicia, Majorca, Seville, Sardinia, Cordova, Corsica, Murcia, Jaen, the Algarves, Algeziras, Gibraltar, the Canary Islands; of the two Indies, and of the Islands of the Ocean Sea; Archduke of Austria; Duke of Burgundy, of Brabant, and Milan; Count of Hapsburg, Flanders, Tirol, and Barcelona; Lord of Biscay and Molina :

To my great and good friends the United States of America :

GREAT AND GOOD FRIENDS :

It having been represented to us by Don Luis de Onis, our envoy extraordinary and minister plenipotentiary to you, that he is desirous to return to Europe, for the recovery of his health, we have thought fit to grant him the necessary permission for that purpose. We have, therefore, authorized him to take his leave of you, and have charged him, in so doing, to assure you of our constant friendship and desire to maintain and strengthen the ties of amity now happily subsisting between us. On his faithful execution of these our commands, we rely with confidence, as we do that you will receive with satisfaction these renewed assurances.

We conclude by commending you to God; and we pray that he would have you in his safe and holy keeping.

Madrid, *of* 1819.

Your good friend,

FERDINAND.

JOAQUIM JOSE MELGAREIJO DE RUIZ DAVALOS.

A true copy.

L. the Duke of SAN FERNANDO and QUIROGA.

Don Luis de Onis to the Secretary of State.

[TRANSLATION.]

SIR: Having received from my sovereign an appointment to other duties, and being thereby deprived of the satisfaction of presenting to the President the letters of re-credence of the king, my master, I am under the necessity of transmitting them to you, with my request that you would be pleased to lay them before his excellency the Presi-

sident; to whom you will also make it known, that his majesty, on deciding to terminate my mission to your government, has commanded me to express to it the assurance of his unalterable desire to maintain the strict friendship now happily subsisting between both powers.

In fulfilling these orders of my sovereign, permit me, sir, also, to express to you the deep sense I entertain of the personal attentions with which I was honored by the President, by yourself in particular, and by the citizens of the Union in general; and to add the assurance, that it will ever be to me a subject of the most grateful reflection, if, in the discharge of my duties, and in the execution of the orders of my government, whose object it always has been to establish the most perfect harmony between the two countries, I shall have been so fortunate as to have acquired the esteem of the President, together with yours.

I pray you, sir, to receive the further assurance of my distinguished sentiments, and my wish that God may preserve you many years.

Madrid, January 27, 1820.

LUIS DE ONIS.

Credential letter delivered by General Vives to the President of the United States.

[TRANSLATION.]

Don Ferdinand the Seventh, King, by the grace of God, of Castile, Leon, and Arragon, of the two Sicilies, Jerusalem, Navarre, Grenada, Toledo, Valencia, Galicia, Majorca, Seville, Sardinia, Cordova, Corsica, Murcia, Jaen, the Algarves, Algesiras, Gibraltar, the Canary islands, of the two Indies, and of the islands of the Ocean sea; Archduke of Austria, Duke of Burgundy, of Brabant and Milan; Count of Hapsburg, Flanders, Tirol, and Barcelona; Lord of Biscay and of Molina;

To my great and good friends the United States of America.

GREAT AND GOOD FRIENDS :

Being animated by the most sincere desire to maintain the friendship and good understanding happily subsisting between both countries, and it being necessary, to that end, that another person, possessing our entire confidence, should forthwith be deputed to you, as a successor to our late Envoy and Minister Plenipotentiary, Don Luis De Onis, to whom we have granted leave to return to Europe, for the re-establishment of his health, we have thought fit to confer the said appointment on Don Francisco Dionisio Vives, a major general

of our armies, knight of the third class of the Royal and Military Order of Saint Ferdinand, and a member of the Supreme Council of the said order; knight of the Royal and Military Order of St. Hermenegildo; twice honored by decrees of thanks for patriotic services; decorated with the North Star, and Crosses of Honor for distinguished conduct and valor at the battles of Albuera, Sorauren, Lugo, Tamañes and Medina del Campo; also, at the surrender of Villa Franca to the army of the left; he uniting the requisite qualifications for the due discharge of the said trust.

We therefore hope, that, on his presenting to you this our letter of credence, you will grant him a kind and favorable reception; giving all faith and credit to what he shall say to you on our behalf. Done at Madrid, this fifteenth day of December, 1819.

FERDINAND.

Countersigned—Joaquin Josef Melgarejo de Ruis Davalos.

A true copy.

L. THE DUKE OF SAN FERNANDO AND QUIROGA.

[TRANSLATION.]

General Don Francisco Dionisio Vives to the Secretary of State.

SIR: In conformity with the orders of my government, which were communicated to Mr. Forsyth on the 16th of December last, by his excellency the Duke of San Fernando and Quiroga, and with the earnest desire of the King, my master, to see a speedy adjustment of the existing difficulties which obstruct the establishment, on a permanent basis, of the good understanding so obviously required by the interests of both powers, I have the honor to address you, and frankly to state to you, that my august sovereign, after a mature and deliberate examination, in full council, of the treaty of 22d February of the last year, saw, with great regret, that, in its tenor, it was very far from embracing all the measures indispensably requisite to that degree of stability which, from his sense of justice, he was anxious to see established in the settlement of the existing differences between the two nations.

The system of hostility, which appears to be pursued in so many parts of the Union, against the Spanish dominions, as well as against the property of all their inhabitants, is so public and notorious, that, to enter into detail, would only serve to increase the causes of dissatisfaction; I may be allowed, however, to remark, that they have been justly denounced to the public of the United States, even by some of their own fellow-citizens.

Such a state of things, therefore, in which individuals may be considered as being at war, while their governments are at peace with

each other, is diametrically opposed to the mutual and sincere friendship, and to the good understanding which it was the object of the treaty (though the attempt has failed) to establish, and of the immense sacrifices consented to by his Majesty to promote.

These alone were motives of sufficient weight imperiously to dictate the propriety of suspending the ratification of the treaty, even although the American Envoy had not at first announced, in the name of his government, and subsequently required, of that of Spain, a declaration which tended directly to annul one of its most clear, precise, and conclusive articles, even after the signature and ratification of the treaty.

The King, my master, influenced by considerations so powerful as to carry with them the fullest evidence, has, therefore, judged it necessary and indispensable, in the exercise of his duties as a sovereign, to request certain explanations of your government; and he has, in consequence, given me his commands to propose to it the following points; in the discussion and final arrangement of which, it seems proper that the relative state of the two nations should be taken into full consideration.

That the United States, taking into due consideration the scandalous system of piracy established in, and carried on from, several of their ports, will adopt measures, satisfactory and effectual, to repress the barbarous excesses, and unexampled depredations, daily committed upon Spain, her possessions, and properties; so as to satisfy what is due to international rights, and is equally claimed by the honor of the American people.

That, in order to put a total stop to any future armaments, and to prevent all aid whatsoever being afforded from any part of the Union, which may be intended to be directed against, and employed in the invasion of H. C. Majesty's possessions in North America, the United States will agree to offer a pledge (*a dar una seguiradad*) that their integrity shall be respected.

And, finally, that they will form no relations with the pretended governments of the revolted provinces of Spain, situate beyond sea, and will conform to the course of proceeding adopted, in this respect, by other powers in amity with Spain.

In submitting to you these just and natural demands, I have received the orders of the King, my master, to make known to the President that they would have been regularly communicated to the Minister Plenipotentiary of the United States at Madrid, if, in the excess of his zeal, he had not, at an early period, been induced to express himself in terms disrespectful to the dignity of his Majesty; and I am, at the same time, commanded to give the assurance that, in alluding to an incident of so unpleasant a nature, it is not intended to make the conduct of Mr. Forsyth a subject of complaint, but merely to make your government fully acquainted with the motives of my august sovereign, in adopting the resolution as already stated.

I flatter myself that the President, on an attentive examination of the contents of this note, entirely dictated by sentiments of justice,

will see a decisive evidence of the sincere desire of the King, my master, to attain with promptitude the definitive settlement of a transaction, no less important in itself, than it is essential to the mutual interests of the two countries.

I eagerly avail myself of this occasion to assure you of my perfect respect, and highest consideration. I pray that God may long preserve you.

FRANCISCO DIONISIO VIVES.

WASHINGTON, April 14, 1820.

The Secretary of State to General Don Francisco Dionisio Vives, Envoy Extraordinary and Minister Plenipotentiary from Spain.

DEPARTMENT OF STATE,

Washington, 18th April, 1820.

SIR: Before replying to the letter which I have had the honor of receiving from you, dated the 14th instant, I am directed by the President of the United States to request a copy of your full powers; and to be informed whether you are the bearer of the ratification, by his Catholic Majesty, of the treaty signed on the 22d of February, 1819, by Don Luis de Onís; and are ready, in the event of suitable explanations being given upon the points mentioned in your letter, to exchange the same for the ratification on the part of the United States, if the Senate should advise and consent that such exchange of ratifications should now be accepted.

Please to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

General Don Francisco Dionisio Vives to the Secretary of State.

[TRANSLATION.]

SIR: In answer to your note of yesterday's date, and in compliance with the request stated in its first point, I have the honor to enclose a copy of my full powers.

I have, at the same time, to inform you that I am not the bearer of the ratification of the treaty of the 22d of February, 1819, signed by

Don Luis de Onís; nor does it seem agreeable to the natural course of things, and to established usage, that a treaty should be ratified previous to a removal of the obstacles which have expressly caused the suspension of its ratification. But I am enabled to assure you that I am fully authorized to offer a solemn promise, in the name of the King, my master, that, if the result of the proposals presented in my first note be satisfactory, the ratification of the treaty will be attended with no further delay than the time indispensably necessary for the arrival at Madrid of one of the gentlemen attached to my legation, who has accompanied me for that especial purpose.

I renew to you, Sir, the assurance of my distinguished consideration, and I pray God long to preserve you.

FRANCISCO DIONISIO VIVES.

Washington, 19th April, 1820.

Full power of General Vives.

[TRANSLATION.]

Don Ferdinand the Seventh, King, by the grace of God, of Castile, Leon and Arragon, of the two Sicilies, Jerusalem, Navarre, Grenada, Toledo, Valencia, Galicia, Majorca, Seville, Sardinia, Cordova, Corsica, Murcia, Jaen, the Algarves, Gibraltar, the Canary Islands, of both Indies, and of the Isles of the Ocean; Archduke of Austria, Duke of Burgundy, Brabant, and Milan; Count of Hapsburg, Flanders, Tirol, and Barcelona; Lord of Biscay, and of Molina, &c. &c. &c.

The state of peace, amity, and good understanding, now happily subsisting between Us and the United States of North America, being favorable to the mutual and amicable adjustment and settlement of all existing differences between the two governments; and it being expedient, to that end, to authorise a person, having our confidence, and possessed of the requisite information, experience, and political knowledge, for so important a trust: which qualities uniting in you, Don Francisco Dionisio Vives, a Major-General in our service, a Knight of the Royal and Military Order of San Ferdinand, and Member of the Supreme Council of the said Order; a Knight of the Royal and Military Order of Saint Hermenegildo; twice honored by decrees of thanks for public services; decorated with the order of the North Star, and Crosses of Honor, for distinguished conduct and valor at the battles of Albuera, Sorauren, Lugo, Tamames, and Medina del Campo, the surrender of Villa Franca del Vierzo, in the operations

of the army of the left, at the sieges of Pampeluna and Bayonne; and our Envoy Extraordinary and Minister Plenipotentiary to the above named States.

We have authorized, and by these presents we do authorize you, granting you full power, in the most ample form, to meet and confer with such person or persons as may be duly authorized by the government of the United States; and with him or them to settle, conclude, and sign, whatsoever you may judge necessary to the best arrangement of all points depending between the two governments; promising, as we do hereby promise, upon the faith and word of a King, to approve, ratify, and fulfil, such articles or agreements as you may conclude and sign.

In testimony whereof, I have commanded the present to be issued, signed by us, sealed with our privy seal, and countersigned by the undersigned, our principal Secretary of State, and of Universal Dispatch. Given at Madrid, the 15th of December, 1819.

I, THE KING.

Countersigned,

L. JOAQUIN JOSE MELGAREJO DE RUIZ DEVALOS.

The Secretary of State to General Don Francisco Dionisio Vives.

DEPARTMENT OF STATE,

Washington, 21st April, 1820.

SIR: I am directed by the President of the United States to express to you the surprise and concern with which he has learnt that you are not the bearer of the ratification, by his Catholic Majesty of the treaty signed on the 22d February, 1819, by Don Louis de Onis, by virtue of a full power, equally comprehensive with that which you have now produced. A full power, by which his Catholic Majesty promised, "on the faith and word of a king, to approve, ratify, and fulfil, whatsoever might be stipulated and signed by him."

By the universal usage of nations, nothing can release a sovereign from the obligation of a promise thus made, except the proof that his minister, so empowered, has been faithless to his trust, by transcending his instructions.

Your sovereign has not proved, nor even alleged, that Mr. Onis had transcended his instructions; on the contrary, with the credential letter which you have delivered, the President has learnt that he has been relieved from the mission to the United States only to receive a new proof of the continued confidence of his Catholic Majesty, in the appointment to another mission, of equal dignity and importance.

On the faith of this promise of the king, the treaty was signed and ratified on the part of the United States; and it contained a stipulation that it should also be ratified by his Catholic Majesty, so that the ratifications should, within six months from the date of its signature, be exchanged.

In withholding this promised ratification beyond the stipulated period, his Catholic Majesty made known to the President that he should forthwith despatch a person, possessing entirely his confidence, to ask certain *explanations*, which were deemed by him necessary previous to the performance of his promise to execute the ratification.

The minister of the United States at Madrid was enabled, and offered to give all the *explanations* which could justly be required in relation to the treaty. Your government declined even to make known to him their character; and they are now, after the lapse of more than a year, first officially disclosed by you.

I am directed by the President to inform you, that explanations which ought to be satisfactory to your government, will readily be given upon all the points mentioned in your letter of the 14th inst.; but that he considers none of them, in the present state of the relations between the two countries, as points for *discussion*. It is indispensable that, before entering into any new negotiation between the United States and Spain, that relating to the treaty already signed should be closed. If, upon receiving the *explanations* which your government has asked, and which I am prepared to give, you are authorized to issue orders to the Spanish officers commanding in Florida to deliver up to those of the United States who may be authorized to receive it, immediate possession of the province, conformably to the stipulations of the treaty, the President, if such shall be the advice and consent of the Senate, will wait (with such possession given) for the ratification of his Catholic Majesty, till your messenger shall have time to proceed to Madrid. But if you have no such authority, the President considers it would be at once an unprofitable waste of time, and a course incompatible with the dignity of this nation, to give explanations which are to lead to no satisfactory result; and to resume a negotiation, the conclusion of which can no longer be deferred.

Be pleased to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

General Don Francisco Dionisio Vives to the Secretary of State.

[TRANSLATION.]

SIR: In acknowledging the receipt of your note of the 21st instant, I have the honor to remark, in the first place, that you appear to have misconceived a material part of my letter of the 14th, by repro-

ducing arguments which have been already sufficiently refuted by my government. You will, therefore, excuse me from reviving them here, in so far as they relate to the question whether a sovereign is, or is not, bound to ratify what may have been signed by his negotiator, it being well known that various instances may be cited of cases in which the ratification of a treaty has been justly suspended, without alleging, as the motive for so doing, that the negotiator had transcended his powers or instructions. There may, unquestionably, be other reasons sufficiently valid to exonerate him from the obligation of ratifying, supposing that to have been the case.

It is evident, that the scandalous proceedings of a number of American citizens; the decisions of several of the courts of the Union; and the criminal expedition set on foot within it for the invasion of His Majesty's possessions in North America, at the very period when the ratification was still pending, were diametrically opposite to the most sacred principles of amity, and to the nature and essence of the treaty itself. These hostile proceedings were, notwithstanding, tolerated by the Federal Government, and thus the evil was daily aggravated; so that the belief generally prevailed throughout Europe that the ratification of the treaty by Spain, and the acknowledgement of the independence of her rebellious trans-atlantic colonies, by the United States, would be simultaneous acts. The pretensions advanced by Mr. Forsyth, in relation to the 8th article, were also evidently calculated to render the treaty illusory. It is, therefore, not possible to assign reasons more powerful, or more completely justificatory of the sovereign resolution of the King, my master, to suspend his ratification of that instrument.

In my first note, I also hinted at the offensive terms employed by the American Minister at Madrid, from the very outset; which you notice no further than by taking up the second point upon which the one, which I now have the honor to contest, essentially turns. Although His Majesty might certainly have kept aloof from a deportment so void of moderation, and so derogatory to his dignity, it is obvious that any discussions commenced with the minister so situated were only likely to produce unprofitable results, his correspondence tending more powerfully to disunite than to reconcile the contracting parties. It was, indeed, a subject of great regret, that the incident just referred to; the distance of Spain from the new world, which, from the obstructions to correspondence, produced unavoidable delay, in receiving correct information of the events passing here, and which to His Majesty appeared incredible; and, in fine, his wish to avoid whatever had the appearance of an unfounded complaint, and an unpleasant difference between the two governments, should have retarded my arrival, and the happy conclusion of the transaction now pending.

I have further to state to you, that I am not authorized by His Majesty to give the necessary orders to the Spanish authorities in the Floridas to deliver up those possessions to the United States; nor was this to be presumed, since, if it appeared contrary to the natural or-

der of things, and to established usage, that the treaty should be ratified previous to receiving the explanations which necessitated its suspension, it would, consequently, seem the more so, that it should receive its due accomplishment before it was finally ratified.

It is with equal surprise and concern that I observe, in the conclusion of your note, that you intimate the intention to decline any discussion of my proposals *previous* to the possession of the Floridas; since it appears to me that such discussion could not be long, in the event of your government being ready to accede to them; (in which case I repeat that I am authorized solemnly to promise, in the name of His Majesty, that the ratification of the treaty shall be no longer delayed) nor, that the delay, unavoidably produced by that particular cause, in the occupation of the territories in question, could be considered as derogatory to the dignity of the United States; and the more so, as, until then, His Catholic Majesty would not be in the full possession of his rights.

I flatter myself that, on a consideration of the contents of this note, you will favor me with an answer more agreeable to my wishes.

In the mean time, I reiterate the assurance of my distinguished consideration and respect, praying God to preserve you many years.

FRANCISCO DIONISIO VIVES.

Washington, 24th April, 1820.



The Secretary of State to General Don Francisco Dionisio Vives, Envoy Extraordinary and Minister Plenipotentiary from Spain.

DEPARTMENT OF STATE,

Washington, 3d May, 1820.

SIR: The explanations upon the points mentioned in your letter of the 14th ultimo, which I have had the honor of giving you at large in the conference between us, on Saturday last, and the frankness of the assurances which I had the pleasure of receiving from you, of your conviction that they would prove satisfactory to your government, will relieve me from the necessity of recurring to circumstances which might tend to irritating discussions. In the confident expectation that, upon the arrival of your messenger at Madrid, his Catholic Majesty will give his immediate ratification to the treaty of the 22d February, 1819, I readily forbear all reference to the delays which have hitherto retarded that event, and all disquisition upon the perfect right which the United States have had to that ratification.

I am now instructed to repeat the assurance which has already been given you, that the representations which appear to have been made

to your government of a system of hostility, in various parts of this Union, against the Spanish dominions, and the property of Spanish subjects; of decisions marked with such hostility by *any* of the courts of the United States, and of the toleration, in any case of it, by this government, are unfounded. In the existing unfortunate civil war, between Spain and the South American provinces, the United States have constantly avowed, and faithfully maintained, an impartial neutrality. No violation of that neutrality, by any citizen of the United States, has ever received sanction or countenance from this government. Whenever the laws, previously enacted for the preservation of neutrality, have been found, by experience, in any manner defective, they have been strengthened by new provisions, and severe penalties. Spanish property, illegally captured, has been constantly restored by the decisions of the tribunals of the United States; nor has the *life itself* been spared of individuals guilty of piracy, committed upon Spanish property on the high seas.

Should the treaty be ratified by Spain, and the ratification be accepted by, and with the advice and consent of, the Senate, the boundary line, recognized by it, will be respected by the United States, and due care will be taken to prevent any transgression of it—no new law or engagement will be necessary for that purpose. The existing laws are adequate to the suppression of such disorders, and they will be, as they have been, faithfully carried into effect. The miserable disorderly movement of a number, not exceeding seventy, lawless individual stragglers, who never assembled within the jurisdiction of the United States, into a territory to which His Catholic Majesty has no acknowledged right, other than the yet unratified treaty, was so far from receiving countenance or support from the government of the United States, that every measure, necessary for its suppression, was promptly taken under their authority; and, from the misrepresentations which have been made of this very insignificant transaction to the Spanish government, there is reason to believe that the pretended expedition itself, as well as the gross exaggerations which have been used to swell its importance, proceed from the same sources, equally unfriendly to the United States and to Spain.

As a necessary consequence of the neutrality between Spain and the South American provinces, the United States can contract no engagement, not to form any relations with those provinces. This has explicitly and repeatedly been avowed and made known to your government, both at Madrid and at this place. The demand was resisted both in conference and written correspondence, between Mr. Erving and Mr. Pizarro. Mr. Onís had long and constantly been informed, that a persistence in it would put an end to the possible conclusion of any treaty whatever. Your Sovereign will perceive, that, as such an engagement cannot be contracted by the United States consistently with their obligations of neutrality, it cannot be justly required of them; nor have any of the European nations ever bound themselves to Spain by such an engagement.

With regard to your *proposals*, it is proper to observe, that His

Catholic Majesty, in announcing his purpose of asking *explanations* of the United States, gave no intimation of an intention to require new articles to the treaty. You are aware that the United States cannot, consistently with what is due to themselves, stipulate new engagements as the price of obtaining the ratification of the old. The declaration, which Mr. Forsyth was instructed to deliver at the exchange of the ratifications of the treaty, with regard to the eighth article, was not intended to annul, or in the slightest degree to alter or impair, the stipulations of that article; its only object was to guard your government, and all persons who might have had an interest in any of the annulled grants, against the possible expectation or pretence that those grants would be *made valid* by the treaty. All grants subsequent to the 24th January, 1818, were declared to be positively null and void; and Mr. Onís always declared, that he signed the treaty, fully *believing*, that the grants to the Duke of Alagon, Count Púnon Rostro, and Mr. Vargas, were subsequent to that date. But he had, in his letter to me of 16th November, 1818, declared, that those grants were null and void, because the essential conditions of the grants had not been fulfilled by the grantees. It was distinctly understood by us both, that no grant, of whatever date, should be made valid by the treaty, which would not have been valid by the laws of Spain and the Indies, if the treaty had not been made. It was, therefore, stipulated, that grants, prior to the 24th January, 1818, should be confirmed, only "to the same extent that the same grants would be valid, if the territories had remained under the dominion of His Catholic Majesty." This, of course, excluded the three grants above mentioned, which Mr. Onís had declared invalid, for want of the fulfillment of their essential conditions; a fact which is now explicitly admitted by you. A single exception to the principle, that the treaty should give no confirmation to any imperfect title, was admitted; which exception was, that owners in *possession of lands*, who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, had been *prevented* from fulfilling *all* the conditions of their grants, should *complete* them within the terms limited in the same from the date of the treaty; this had obviously no reference to the above mentioned grants, the grantees of which were not in possession of the lands, who had fulfilled *none* of their conditions, and who had not been *prevented* from fulfilling any of them by the circumstances of Spain or the revolutions of Europe. The article was drawn up by me, and, before assenting to it, Mr. Onís inquired what was understood by me as the import of the terms "shall complete them." I told him, that, in connexion with the terms "all the conditions," they necessarily implied, that the indulgence would be limited to grantees who had performed *some* of the conditions, and who had commenced settlements, which it would allow them to complete. These were precisely the cases for which Mr. Onís had urged the equity of making a provision, and he agreed to the article, fully understanding that it would be applicable only to them. When, after the signature of the treaty, there appeared to be some reason for supposing that

Mr. Onis had been mistaken in believing that the grants to the Duke of Alagon, Count Punon Rostro, and Mr. Vargas, were subsequent to the 24th of January, 1818, candor required that Spain and the grantees should never have a shadow of ground to expect or alledge that this circumstance was at all material, in relation to the hearing of the treaty upon those grants. Mr. Onis had not been mistaken in declaring that they were invalid, because their conditions were not fulfilled. He had not been mistaken in agreeing to the principle, that no grant, invalid as to Spain, should, by the treaty, be made valid against the United States. He had not been mistaken in the knowledge that those grantees had neither commenced settlements, nor been prevented from completing them by the circumstances of Spain, or the revolutions in Europe. The declaration which Mr. Forsyth was instructed to deliver, was merely to caution all whom it might concern not to infer, from an unimportant mistake of Mr. Onis as to the date of the grants, other important mistakes which he had not made, and which the United States would not permit to be made by any one. It was not, therefore, to annul or to alter, but to fulfil the eighth article as it stands, that the declaration was to be delivered; and it is for the same purpose that this explanation is now given. It was with much satisfaction, therefore, that I learned from you the determination of your government to assent to the total nullity of the above mentioned grants.

As I flatter myself that these explanations will remove every obstacle to the ratification of the treaty by his Catholic Majesty, it is much to be regretted that you have not that ratification to exchange, nor the power to give a pledge which would be equivalent to the ratification. The six months within which the exchange of the ratifications were stipulated by the treaty, having elapsed, by the principles of our constitution, the question, whether it shall now be accepted, must be laid before the Senate for their advice and consent. To give a last and signal proof of the earnest wish of this government, to bring to a conclusion these long standing and unhappy differences with Spain, the President will so far receive that solemn promise of immediate ratification, upon the arrival of your messenger at Madrid, which, in your note of the 19th ult. you declare yourself authorized, in the name of your Sovereign, to give, as to submit to the Senate of the United States, whether they will advise and consent to accept it, for the ratification of the United States heretofore given.

But, it is proper to apprise you, that if this offer is not accepted, the United States, besides being entitled to resume all the rights, claims, and pretensions, which they had renounced by the treaty, can no longer consent to relinquish their claims of indemnity, and those of their citizens, from Spain, for all the injuries which they have suffered and are suffering, by the delay of his Catholic Majesty to ratify the treaty. The amount of claims of the citizens of the United States, which existed at the time when the treaty was signed, far exceeded that which the United States consented to accept as indemnity. Their right of territory was, and yet is, to the Rio del Norte.

I am instructed to declare, that, if any further delay to the ratification, by His Catholic Majesty, of the treaty, should occur, the United States could not hereafter accept, either of five millions of dollars, for the indemnities due to their citizens by Spain, nor of the Sabine for the boundary between the United States and the Spanish territories.

Please to accept the renewed assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

General Don Francisco Dionisio Vives to the Secretary of State.

[TRANSLATION.]

SIR: In answer to your note of the 3d instant, and in pursuance of what I expressed to you in both our late conferences, I have to state to you that I am satisfied upon the first point of the proposals contained in my note of the 14th ultimo; and am persuaded that, if the existing laws, enacted for the suppression of piracy, should prove inadequate, more effectual measures will be adopted by your government for the attainment of that important object.

I also admit, as satisfactory, the answer given to the second point, but I cannot assent to your assertion that the laws of this country have always been competent to the prevention of the excesses complained of; it being quite notorious that the expedition alluded to has not been the only one set on foot for the invasion of His Majesty's dominions; and it is, therefore, not surprising that the King, my Lord, should give credit to the information received in relation to that expedition, or that he should now require of your government a pledge that the integrity of the Spanish possessions in North America shall be respected.

I mentioned to you in conference, and I now repeat it, that the answer to the third point was not such as I could, agreeably to the nature of my instructions, accept as being satisfactory; and that, although his majesty might not have required of any of the European governments the declaration which he has required of yours, yet that ought not to be considered as unseasonable; it being well known to the King, my master, that those governments, so far from being disposed to wish to recognize the insurgent governments of the Spanish colonies, had declined the invitation intimated to them some time past by yours, to acknowledge the pretended republic of Buenos Ayres. I, notwithstanding, renew to you the assurance that I will submit to His Majesty the verbal discussion we have had upon this point, and accompany it with such additional arguments as will, in my judgment, probably determine His Majesty to declare himself to be satisfied therewith.

In the event of the King's receiving, as satisfactory, the answer of your government to the third point of my proposals, the abrogation

of the grants will be attended with no difficulty; nor has that ever been the chief motive for suspending the ratification of the treaty; for the thorough comprehension of which I wave at present any reply to the remarks which you are pleased to offer on that topic. I cannot, however, refrain from stating to you, that, in discussing with you the validity or the nullity of the grants abovementioned, I merely said "that, in my private opinion, they were null and void, through the *inability* of the grantees to comply with the terms of the law."

It is to me a matter of great regret, that I have it not in my power to repeat the solemn promise that His Majesty will ratify the treaty; inasmuch as I cannot, agreeably to my instructions, accept as satisfactory the answer given to the third point of my proposals. I am, however, persuaded, that His Majesty, upon consideration of the representation which I shall have the honor to lay before him, and of the reasons assigned by your government for withholding its assent to the third point, will consider himself as satisfied and ratify the treaty.

I further conceive it my duty to state to you that, at the time when I communicated to your government the substance of my present answer, I mentioned, speaking in my individual capacity, that, although I had no official information of it, yet I consider as authentic the current intelligence of an important change, said to have taken place in the government of Spain; and that this circumstance alone would impose on me the obligation of giving no greater latitude to my promise, previous to my receiving new instructions.

I therefore hope that your government, upon consideration of what I have now submitted to you, and of the contents of my former notes, will agree to await the final decision of the King, my master, upon the only point still pending, and the adjustment of which is not within my competency; so that the past differences may be satisfactorily terminated and the treaty receive its final accomplishment; thereby securing and perpetuating a perfect harmony and good understanding between the two governments.

Be pleased to accept the assurances of my distinguished consideration. I pray God to preserve you many years.

FRANCISCO DIONISIO VIVES.

Washington, 5th May, 1820.

The Secretary of State to General Vives.

GENERAL VIVES,

Envoy Extraordinary and
Minister Plenipotentiary of Spain.

DEPARTMENT OF STATE,

Washington, 6th May, 1820.

SIR: In the letter which I have had the honor of receiving from you, dated yesterday, you observe that you renew the assurance that

you will submit to His Majesty, *the verbal discussion we have had on the third point, concerning which you were instructed to ask for explanations. I have to request of you to state specifically the representation which you propose to make to His Majesty, of what passed between us in conference on this subject.*

I pray you to accept the renewed assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

General Don Francisco Dionisio Vives to the Secretary of State.

[TRANSLATION.]

SIR: I have received the note you were pleased to address to me of yesterday's date, and, in answer thereto, I have to state, that the verbal discussion between us upon the third point of my proposals, is comprised in your note of the third, and in my reply of the fifth inst. and that, consequently, the statement of it which I shall transmit for His Majesty's information will be in strict accordance with the tenor of the said notes.

I renew to you the assurance of my high esteem, and I pray God to preserve you many years.

FRANCISCO DIONISIO VIVES.

Washington, 7th May, 1820.

The Secretary of State to General Don Francisco Dionisio Vives, Envoy Extraordinary and Minister Plenipotentiary of Spain.

DEPARTMENT OF STATE,

Washington, 8th May, 1820.

SIR: In the letter which I had the honor of writing you on the 3d instant, it was observed, that all reference would readily be waived to the delays which have retarded the ratification by His Catholic Majesty, of the treaty of the 22d February, 1819, and all disquisition upon the perfect right of the United States to that ratification; in the confident expectation that it would be immediately given upon the arrival of your messenger at Madrid, and subject to your compliance with the proposal offered you in the same note, as the last proof which the President could give of his reliance upon the termination of the differences between the United States and Spain, by the ratification of the treaty.

This proposal was, that, upon the explanations given you on all the points noticed in your instructions, and with which you had admitted yourself to be personally satisfied, you should give the solemn promise, in the name of your sovereign, which, by your note of the 19th ultimo, you had declared yourself authorised to pledge; that the ratification should be given immediately upon the arrival of your messenger at Madrid, which promise, the President consented so far to receive, as to submit the question for the advice and consent of the Senate of the United States, whether the ratification of Spain should, under these circumstances, be accepted in exchange for that of the United States heretofore given. But, the President has, with great regret, perceived, by your note of the 5th instant, that you decline giving even that unconditional promise, upon two allegations; one, that, altho' the explanations given you on one of the points mentioned in your note of the 14th ultimo, are satisfactory to yourself, and you hope and believe will prove so to your Sovereign, they still were not such as you were authorised by your instructions to accept; and the other, that you are informed a great change has recently occurred in the government of Spain, which circumstance ALONE would prevent you from giving a further latitude to your promise, previous to your receiving new instructions.

It becomes, therefore, indispensably necessary to shew the absolute obligation by which His Catholic Majesty was bound to ratify the treaty, within the term stipulated by one of its articles, that the reasons alleged for his withholding the ratification are altogether insufficient for the justification of that measure, and that the United States have suffered by it the violation of a perfect right, for which they are justly entitled to indemnity and satisfaction; a right further corroborated by the consideration that the refusal of ratification necessarily included the non-fulfilment of another compact between the parties which had been ratified—the convention of August, 1802.

While regretting the necessity of producing this proof, I willingly repeat the expression of my satisfaction at being relieved from that of enlarging upon other topics of an unpleasant character. I shall allude to none of those, upon which you have admitted the explanations given to be satisfactory, considering them as no longer subjects of discussion between us or our governments. I shall with pleasure forbear noticing any remarks in your notes concerning them, which might otherwise require animadversion.

With the view of *confining* this letter to the only point upon which further observation is necessary, it will be proper to state the present aspect of the relations between the contracting parties.

The treaty of 22d February, 1819, was signed after a succession of negotiations of nearly twenty years' duration, in which all the causes of difference between the two nations had been thoroughly discussed; and with a final admission on the part of Spain, that there were existing just claims on her government, at least to the amount of five millions of dollars, due to citizens of the United States, and for the payment of which provision was made by the treaty. It was

signed by a minister, who had been several years residing in the United States, in constant and unremitted exertions to maintain the interests and pretensions of Spain involved in the negotiation.—Signed after producing a full power, by which, in terms as solemn and as sacred as the hand of a sovereign can subscribe, his Catholic Majesty had promised to approve, ratify, and fulfil whatever should be stipulated and signed by him.

You will permit me to repeat, that, by every principle of natural right, and by the universal assent of civilized nations, nothing can release the *honor* of a sovereign from the obligation of a promise thus unqualified, without the proof that his minister has signed stipulations unwarranted by his instructions. The express authority of two of the most eminent writers upon national law, to this point, were cited in Mr. Forsyth's letter of 2d October, 1819, to the duke of San Fernando. The words of Vattel are "But, to refuse, with honor, to ratify that which has been concluded in virtue of a full power, the sovereign must have strong and solid reasons for it; *and particularly he must show* that his minister transcended his instructions."* The words of Martens are: "Every thing that has been stipulated by an agent, in conformity to his full powers, ought to become obligatory for the state from the moment of signing, without ever waiting for the ratification. However, not to expose a state to the errors of a single person, it is now become a general maxim, that public conventions do not become obligatory, until ratified. The motive of this custom clearly proves that the ratification can never be refused with justice, except when he who is charged with the negotiation, keeping within the extent of his public full powers, has gone beyond his secret instructions, and consequently rendered himself liable to punishment; or when the other party refuses to ratify."† In your letter of the 24th ultimo, you observe that these positions have already been refuted by your government, which makes it necessary to inquire, as I, with great reluctance, do, how they have been refuted?

The duke of San Fernando, in his reply to this letter of Mr. Forsyth, says, maintains, and repeats, "that the very authorities cited by Mr. Forsyth, literally declare, that the sovereign, for strong and solid reasons, or, if his minister has exceeded his instructions, may refuse his ratification. [Vattel, book 2, chap. 12.] and that public

* "Mais pour refuser avec honneur de ratifier, ce qui a été conclue en vertu d'un plein pouvoir, il faut que le Souverain en ait de fortes et solides raisons, et qu'il fasse voir en particulier, que son ministre s'est écarté de ses instructions."

Liv. 2. ch. 12. § 156.

† "Ce qui a été stipulé par un subalterne, en conformité de son plein pouvoir devient à la rigueur obligatoire pour la nation du moment même de la signature sans que la ratification soit nécessaire. Cependant pour ne pas abandonner le sort des Etats aux erreurs d'un seul, il a été introduit par un usage généralement reconnu, que les conventions publiques ne deviennent obligatoires, que lorsqu'elles ont été ratifiées. Le motif de cet usage indique assez qu'on ne peut y provoquer avec justice, que lorsque celui qui est chargé des affaires de l'état, en se tenant dans les bornes de son plein pouvoir public, a franchi celle, de son instruction [secrète et que par conséquent il s'est rendu punissable."

Liv. 2. ch. 3. § 31.

treaties are not obligatory until ratified." [Martens, book 2, chap. 3, see note.] In these citations, the duke of San Fernando has substituted for the connective term *and* in Vattel, which makes the proof of instructions transcended indispensable to justify the refusal of ratification, the disjunctive term *or*, which presents it as an alternative, and unnecessary, on the contingency of other existing strong and solid reasons. Vattel says the sovereign must have strong and solid reasons, *and particularly* must show that the minister transcended his instructions. The duke of San Fernando makes him say, the sovereign must have strong and solid reasons, *or if* his minister has exceeded his instructions. Vattel not only makes the breach of instructions indispensable, but puts upon the sovereign the obligation of proving it. The Duke of San Fernando cites Vattel, not only as admitting that other reasons, without a breach of instructions, may justify a refusal of ratification, but that the mere fact of such a breach would also justify the refusal, without requiring that the sovereign alledging should prove it.

Is this refutation?

The only observation that I shall permit myself upon it, is to mark how conclusive the authority of the passage in Vattel must have been to the mind of him, who thus transformed it to the purpose for which he was contending. The citation from Martens receives the same treatment. The Duke of San Fernando takes by itself a part of a sentence, "that public treaties are not obligatory until ratified." He omits the preceding sentence, by which Martens asserts, that a treaty, signed in conformity to full powers, is in rigor obligatory from the moment of signature, without waiting for the ratification. He omits the part of the sentence cited which ascribes the necessity of a ratification to an usage founded upon the danger of exposing a state to the errors of its Minister. He omits the following sentence which explicitly asserts that this usage can never be resorted to, in justification of a refusal to ratify, unless when the Minister has exceeded his secret instructions; and thus, with half this of a sentence, stripped of all its qualifying context, the Duke brings Martens to assert that which he most explicitly denies.

Is this refutation?

While upon this subject, permit me to refer you to another passage of Vattel, which I the more readily cite, because, independent of its weight as authority, it places this obligation of sovereigns upon its immoveable foundation of eternal justice in the law of nature. "It is shown by the law of nature, that he who has made a promise to any one, has conferred upon him a true right to require the thing promised; and that, consequently, not to keep a perfect promise, is to violate the right of another; and is as manifest an injustice, as that of depriving a person of his property. All the tranquility, the happiness, and security, of the human race, rests on justice, on the obligation of paying a regard to the rights of others. The respect of others for our rights of domain and property constitutes the security of our actual possessions. The faith of promises is our security for

the things that cannot be delivered or executed on the spot. There would be no more security, no longer any commerce between mankind, did they not believe themselves obliged to preserve their faith and keep their word. This obligation is then as necessary, as it is natural and indubitable between the nations that live together in a state of nature, and acknowledge no superior upon earth, to maintain order and peace in their society. Nations and their conductors ought then to keep their promises and their treaties inviolable. This great truth, *though too often neglected in practice*, is generally acknowledged by all nations.”*

The melancholy allusion to the frequent practical neglect of this unquestionable principle, would afford a sufficient reply to your assertion that the ratification of treaties has often been refused, though signed by ministers with unqualified full powers, and without breach of their instructions. No case can be cited by you in which such a refusal has been justly given; and the fact of refusal, separate from the justice of the case, amounts to no more than the assertion that sovereigns have often violated their engagements and their duties: the obligation of his Catholic Majesty to ratify the treaty signed by Mr. Onis is therefore complete.

The sixteenth and last article of this treaty is in the following words: “The present treaty *shall be ratified*, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, *or sooner, if possible.*” On the faith of his Catholic Majesty’s promise, the treaty was, immediately after its signature, ratified, on the part of the United States, and, on the 18th of May, following, Mr. Forsyth, by an official note, informed the Marquis of Casa Yrujo, then Minister of Foreign Affairs, at Madrid, that the treaty, duly ratified by the United States, had been entrusted to him by the President, and that he was prepared to exchange it for the ratification of Spain. He added that, from the nature of the engagement, it was desirable that the earliest exchange should be made, and that the American ship of war *Hornet* was waiting in the harbor of Cadiz, destined, in a few days, to the United States, and affording an opportunity, peculiarly convenient, of transmitting the ratified treaty to the United States.

* “On demontre en droit naturel, que celui qui promet a quelqu’un lui confere un veritable droit d’exiger la chose promise; et que par consequent, ne point garder une promesse parfaite, c’est violer le droit d’autrui, c’est une injustice, aussi manifeste, que celle de depouiller quelqu’un de son bien. Toute la tranquillite, le bonheur et la surete du genre humain reposent sur la justice, sur l’obligation de respecter les droits d’autrui. Le respect des autres pour nos droits de domaine et de propriete, fait la surete de nos possessions actuelles; la foi des promesses est notre garant pour les choses qui ne peuvent etre livrees ou executees sur le champ. Plus de surete, plus de commerce, entre les hommes s’ils ne se croient point obliges de garder la foi, de tenir leur parole. Cette obligation est donc aussi necessaire, qu’elle est naturelle et indubitable, entre les nations qui vivent ensemble dans l’etat de nature, et qui ne connaissent point de superieur sur la terre, pour maintenir l’ordre et la paix dans leur societe. Les nations et leurs conducteurs doivent donc garder inviolablement leur promesses, et leur traites. Cette grande verite quoique trop souvent negligee, dans la pratique, est generalement reconnue de toutes les nations.”

No answer having been returned to this note, on the 4th of June Mr. Forsyth addressed, to the same Minister, a second; urging, in the most respectful terms, the necessity of the departure of the *Hornet*, the just expectation of the United States that the ratified treaty would be transmitted by that vessel, and the disappointment which could not fail to ensue should she return without it.

After fifteen days of further delay, on the 19th of June, Mr. Forsyth was informed, by a note from Mr. Salmon, successor to the Marquis of Casa Yrujo, that "His Majesty, on reflecting on the great importance and interest of the treaty in question, was under the indispensable necessity of *examining* it with the greatest caution and deliberation before he proceeded to ratify it, and that this was *all* he was enabled to communicate to Mr. Forsyth on that point."

Thus, after the lapse of more than a month from the time of Mr. Forsyth's first note, and of more than two months from the time when your government had received the treaty, with knowledge that it had been ratified by the United States, the ratification of a treaty which His Catholic Majesty had solemnly promised, so that it might be exchanged within six months from the date of its signature, or sooner, if possible, was withheld merely to give time to His Catholic Majesty to *examine* it; and this treaty was the result of a twenty years' negotiation, in which every article and subject contained in it had been debated and sifted to the utmost satiety between the parties, both at Washington and Madrid—a treaty, in which the stipulations, by the Spanish Minister, had been sanctioned by successive references, of every point, to his own government, and were, by the formal admission of your own note, fully within the compass of his instructions.

If, under the feeling of such a procedure on the part of the Spanish government, the Minister of the United States appealed to the just rights of his country in expressions suited more to the sense of its wrongs, than to the courtesies of European diplomacy; nothing had till then occurred which could have restrained your government from asking of him any explanation which could be necessary for fixing its determination upon the ratification: no explanation was asked of him.

Nearly two months afterwards, on the 10th of August, Mr. Forsyth was informed, that the king would not come to a final decision upon the ratification, without previously entering into several *explanations* with the government of the United States, to some of which that government had given rise, and that His Majesty had charged a person possessed of his full confidence, who would *forthwith* make known to the United States his Majesty's intentions. Mr. Forsyth offered himself to give every explanation which could be justly required; but your government declined receiving them from him, assigning to him the shortness of the time; a reason altogether different from that which you now allege, of the disrespectful character of his communications.

From the 10th of August till the 14th of the last month, a period of more than eight months passed over, during which no information

was given by your government of the nature of the explanations which would be required. The government of the United States, by a forbearance perhaps unexampled in human history, has patiently waited for your arrival, always ready to give, in candor and sincerity, every explanation that could, with any propriety, be demanded. What, then, must have been the sentiments of the President, upon finding, by your note of the 14th ultimo, that, instead of *explanations*, His Catholic Majesty has instructed you to demand the negotiation of another Treaty, and to call upon the United States for stipulations derogatory to their honor, and incompatible with their duties as an independent nation? What must be the feelings of this nation to learn that, when called upon to state whether you were the bearer of His Catholic Majesty's ratification of the Treaty, to be exchanged upon the explanations demanded being given, you explicitly answered, that you were *not*? and, when required to say whether you are authorized, as a substitute for the ratification, to give the pledge of immediate possession of the territory, from which the acknowledged just claims of the citizens of the United States were stipulated to be indemnified, you still answer that you are *not*; but refer us back to a solemn promise of the king, already pledged before in the full power to your predecessor, and to a ratification *as soon as possible* already stipulated in vain by the Treaty which he, in full conformity to his instructions, had signed?

The ratification of that Treaty can now no longer be accepted by this government, without the concurrence of a constitutional majority of the Senate of the United States, to whom it must be again referred. Yet even this promise you were, by my letter of the 3d instant, informed that, rather than abandon the last hope of obtaining the fulfilment of His Catholic Majesty's promise already given, the President would, so far as was constitutionally within his power, yet accept.

The assurances which you had given me, in the first personal conference between us, of your own entire satisfaction with the explanations given you upon *all* the points on which you had been instructed to ask them, would naturally have led to the expectation that the promise which you was authorized to give would, at least, not be withheld. From your letter of the 5th instant, however, it appears that no discretion has been left you, to pledge even His Majesty's promise of ratification, in the event of your being yourself satisfied with the explanations upon *all* the points desired. That the only promise you can give is *conditional*, and the condition a point upon which your government, when they prescribed it, could not but know it was *impossible* that the United States should comply—a condition incompatible with their independence, their neutrality, their justice, and their honor.

It was, also, a condition which His Catholic Majesty had not the shadow of a *right* to prescribe. The Treaty had been signed by Mr. Onís, with a full knowledge that no such engagement as that contemplated by it would ever be acceded to by the American government, and after long and unwearied efforts to obtain it. The differences

between the United States and Spain had no connection with the war between Spain and South America. The object of the Treaty was to settle the boundaries, and adjust and provide for the claims between your nation and ours; and Spain, at no time, could have a right to require that any stipulation concerning the contest between her and her colonies should be connected with it. As His Catholic Majesty could not justly require it, during the negotiation of that Treaty, still less could it afford a justification for withholding his promised ratification after it was concluded.

The proposal, which, at a prior period, had been made by the government of the United States to some of the principal powers of Europe, for a recognition, in concert, of the independence of Buenos Ayres, was founded, as I have observed to you, upon an opinion then and still entertained that this recognition must, and would, at no very remote period, be made by Spain herself; that the joint acknowledgment by several of the principal powers of the world, at the same time, might probably induce Spain the sooner to accede to that necessity, in which she must ultimately acquiesce, and would thereby hasten an event propitious to her own interests, by terminating a struggle in which she is wasting her strength and resources without a possibility of success; an event ardently to be desired by every friend of humanity, afflicted by the continual horrors of a war, cruel and sanguinary almost beyond example; an event, not only desirable to the unhappy people who are suffering the complicated distresses and calamities of this war, but to all the nations having relations of amity and of commerce with them. This proposal, founded upon such motives, far from giving to Spain the right to claim of the United States an engagement not to recognise the South American governments, ought to have been considered by Spain as a proof at once of the moderation and discretion of the United States; as evidence of their disposition to discard all selfish or exclusive views in the adoption of a measure which they deemed wise and just in itself, but most likely to prove efficacious by a common adoption of it, in a spirit entirely pacific, in concert with other nations, rather than by a precipitate resort to it, on the part of the United States, alone.

The conditional promise, therefore, now offered by you, instead of the positive one which you have declared yourself authorized to give, cannot be accepted by the President; and I am constrained to observe that he can consider the procedure of your government, in thus providing you with powers and instructions utterly inefficient for the conclusion of the negotiation with which you are charged, in no other light than as proceeding from a determination, on its part, still to protract and baffle its final successful issue. Under these circumstances, he deems it his duty to submit the correspondence which has passed between us, since your arrival, to the consideration of the Congress of the United States, to whom it will belong to decide how far the United States can yet, consistently with their duties to themselves, and the rights of their citizens, authorize the further delay requested in your note of the 5th instant.

In the conclusion of that note, you have remarked, alluding to a great change which appears to have taken place, since your departure from Madrid, in the government of Spain, that this circumstance *alone* would impose on you the obligation of giving *no greater latitude to your promise* previous to your receiving new instructions. If I have understood you right, your intention is to remark, that this circumstance alone would restrain you, in any event, from giving, without new instructions, the unconditional promise of ratification, which, in a former note, you had declared yourself authorized, in the name of your sovereign, to give. This seems to be equivalent to a declaration, that you consider your powers themselves, in the extent to which they were entrusted to you, as suspended by the events to which you thus refer. If I am mistaken in taking this as your meaning, will you have the goodness to inform me, how far you do consider your powers affected by the present state of your information from Spain?

Please to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Mr. Gallatin to the Secretary of State.

PARIS, February 15, 1820.

SIR: General Vives, the new Minister of Spain to the United States, arrived at Paris on the 11th instant, and left it on the 14th for London, with the intention to embark at Liverpool in the New York packet, which will sail on the 1st day of March.

Mr. Pasquier, after having seen him, invited me to an interview on the 12th, and said that he was in hopes that the differences might still be adjusted. General Vives had told him that the principal points with Spain were, that the honor of the crown should be saved (*mis à couvert*) in the business of the grants, and to receive satisfactory evidence of our intention to preserve a fair neutrality in the colonial war. Mr. Pasquier had observed to him that it would be a matter of deep regret that private interest should prevent the conclusion of such an important arrangement, and that, when it was clear, that there had been at least a misunderstanding on the subject, the King's dignity could not be injured by a resumption of the grants, or by an exchange for other lands: He seemed to think that this would be arranged, and asked me what I thought we could do respecting the other point. I answered that the fullest reliance might be placed on the fairness of our neutrality, and that I was really at a loss to know what could be added to the measures the United States had already adopted to enforce it. Mr. Pasquier gave me to understand

that, if there was any defect, however trifling, in our laws, and that was amended, it would probably be sufficient to satisfy the pride of Spain, as there now appeared a real desire to ratify, provided it could be done without betraying a glaring inconsistency. He had expressed to general Vives his opinion of the impropriety of asking from the United States any promise not to recognize the independence of the insurgent colonies, and had told him that, on that subject, Spain could only rely on the moral effect which a solemn treaty, accommodating all her differences with the United States, would have on their future proceedings.

I expressed my hope that the explanations which general Vives was instructed to give on the subject of the grants, and to ask on that of our neutrality, might be such as to remove all the existing difficulties. But it was most important that he should arrive in the United States before the adjournment of Congress, and that he should be the bearer of the King's ratification of the treaty, so that, if every thing was arranged, those ratifications might be at once exchanged at Washington. If that was not done, the President would have no more security that the King would ratify general Vives than Mr. Onis' acts; and it was impossible to suppose that he would run the risk of a second disappointment. This observation forcibly struck Mr. Pasquier, who said that he would make further inquiries on that point.

I saw, the same evening, the Spanish Ambassador at this court, and, in the course of a short conversation, he suggested that the grants in dispute might be set aside, the grantees not having fulfilled certain conditions or formalities; and, after acknowledging that general Vives was not the bearer of the King's ratification, he hinted that he was authorized to give the United States satisfactory security that Spain would fulfil her engagements.

On the 13th I dined at the Minister of Foreign Affairs with General Vives, who repeated to me in substance what he had said to Mr. Pasquier. I told him that the President would judge of the explanations he had to give on the subject of the grants; that he might rely on the determination of the United States to preserve their neutrality, and not less on the manner in which the laws for enforcing it were executed, than on the tenor of those laws, which, I observed, were, and had always been, more full and efficient than those of either England or France on the same subject; that I could not say whether the question of recognizing the independence of the insurgent colonies would be agitated during the present session of Congress, but, that, if it was, the decision would probably have taken place before his arrival.

I then repeated what I had said to Mr. Pasquier, respecting the importance of his being authorised to exchange the ratifications of the treaty. He answered, that, although he was not, he could, in case of an arrangement, give satisfactory security to the United States, and, that it would consist in consenting that they should take immediate possession of Florida, without waiting for the ratification of the treaty.

General Vives repeated, in the course of the evening, the same

thing to Mr. Pasquier, with whom I had afterwards a short conversation on the subject. He seemed extremely astonished, that the Spanish government should have adopted that course rather than to authorise their Minister to exchange at once the ratifications. Since, however, the measure they proposed coincided with the views of the President, as stated in his message, and would, at all events, prevent a rupture, we both agreed, that no time should be lost in communicating to you General Vives' declarations.

I have the honor to be, &c.

ALBERT GALLATIN.

Extract of a letter from Mr. Rush to the Secretary of State, dated

LONDON, February 25, 1820.

“General Vives, despatched by the King of Spain on a mission to the United States, is now here on his transit to our country. I have not been able to command the opportunity of an interview with him. It may be more acceptable to the government to hear what Lord Castlereagh told me, who has seen him. This was, that he did not fail to say to him every thing of a healing nature, as between the United States and Spain. His Lordship added, that he still looked to an accommodation of all the differences with the same wishes as formerly. General Vives, it seems, mentioned to him that he was not without a hope of producing a conviction, on his arrival at Washington, that, as respects the grants of land, about which such difficulties had arisen under the treaty, Mr. Onís had gone too far in his admissions; farther than facts would be found to warrant. I replied, that my government would listen to what he had to advance on this topic. His Lordship said no more. The General embarks from Liverpool, for New-York, on the first of next month. He will probably be in the ship that takes home this despatch.”